IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1287 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

JASVANT KANAILAL PANDYA - Appellant(s)
Versus
AKBARSHA RAHEMATSHA DIWAN & 1 - Defendant(s)

==========

Appearance :
MR HD VASAVADA for Appellant(s) : 1,
MS SHRADDHA TRIVEDI for Defendant(s) : 1,
None for Defendant(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/07/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and award dated 25.09.85 passed by the Motor Accident Claims Tribunal, Vadodara in MACP No. 695 of 1983 whereby the Tribunal awarded sum of Rs. 26,000/- by way of compensation together with running interest at the rate of 6% per annum.

2. The original claimant had filed a claim petition seeking for compensation to the tune of Rs. 70,000/- in

respect of the accident which occurred while he was going on his cycle from village Padra to Baroda at round 12.00 noon. When he reached near Atladara Jakatnaka, a scooter being driven by original opponent no.1 dashed from behind as a result of which he sustained injuries. The Tribunal after hearing the parties passed the aforesaid award.

3. Learned counsel for the appellant has contended that the Tribunal has erred in not allowing the claim application in full and allowing it only partially as there was no fault on the part of the appellant with regard to the accident.

4. Heard learned counsel and have gone through the documents placed on record. The Tribunal in absence of any solid evidence controverting the factum of accident has not established contributory negligence on behalf of the parties. In that view of the matter, the contention of the appellant cannot be accepted. Moreover, the Tribunal has gone through the evidence in detail, more particularly, the evidence of the applicant himself at Ex.34 and of Orthopedic Surgeon at Ex. 28 and other case papers has calculated the amount of compensation payable which is just and proper and does not call for any interference from this Court.

5. In the premises aforesaid, appeal is dismissed. No order as to costs.

(K.S. JHAVERI, J.)

Divya//